

## **REMARKS**

### **I. Status of the claims**

After entering this amendment, claims 4-21 will be pending. Claims 1-3 have been cancelled without prejudice or disclaimer. Claim 4, currently withdrawn due to the election of species required by the Office, has been amended to more clearly define the invention. Claim 4 has also been placed in independent form incorporating the limitations of claim 1, from which it previously depended. Support for the amendment of claim 4 is found in original claims 1 and 4, and in the specification at p. 2, lines 16-18. New claims 5-21 have been added. Support for new claim 5 is found in original claims 1 and 3. Support for new claim 6 is found in the specification at p. 2, lines 12-18. Support for new claims 7, 8, 15, and 16 is found in the specification at p. 2, lines 6-9. Support for new claims 9 and 17 is found in the specification at p. 3, lines 27-28. Support for new claims 10-11, 13, 18, 19, and 21 is found in the specification at p. 3, lines 23-26. Support for new claims 12 and 20 is found in the specification at p. 6, lines 5-11. Support for new claim 14 is found in the specification at p. 9, lines 1-24.

### **II. Information Disclosure Statement**

The Office did not initial the abstract of JP 5,208,917, listed on the Information Disclosure Statement (IDS) filed on June 10, 2002. Apparently, the Office was not able to find a copy of said abstract in the submission. Applicant is filing herewith a supplemental IDS and corresponding PTO form 1449 listing an abstract of JP 5,208,917. As an additional statement of relevance for JP 5,208,917, Applicant has also listed a copy of the International Search Report for PCT/EP/06282, the parent PCT

application of this U.S. national stage application. Applicant respectfully requests that the Office initial the PTO form 1449, indicating that the documents listed therein have been considered.

### **III. Rejections under 35 U.S.C. § 112**

The Office rejected claim 1-3 for allegedly being indefinite. Claims 1-3 have been cancelled. Accordingly, the Office's rejection is now moot.

In response to the Office's inquiry, Applicant submits that the skilled artisan would understand that a "foodstuff dye" is a dye suitable to be used in foodstuffs.

### **IV. Rejections under 35 U.S.C. § 102**

The Office rejected claim 1-3 for allegedly being anticipated *Wright et al.* Arch. Ophthalmol. 116:119-202 (1998) (*Wright*); *Nasaduke et al.* Ann. Ophthalmol, 18:324-27 (1986) (*Nasaduke*); and U.S. Patent No. 5, 292,362, issued on March 8, 1994, to Bass *et al.* (*Bass*). Claims 1-3 have been cancelled. Accordingly, the Office's rejection is now moot.

### **V. Rejections under 35 U.S.C. § 103**

The Office rejected claim 1-3 for allegedly being obvious in view of *Wright*; *Nasaduke*; and *Bass*. Claims 1-3 have been cancelled. Accordingly, the Office's rejection is now moot.

With respect to the new claims, Applicant points out that none of the references cited by the Office discloses, alone or in combination, the subject matter now claimed.

For example, none of the cited references discloses a method for the occlusion of a blood or a lymphatic vessel wherein said occluded blood or lymphatic vessel is stained. Rather, the references indicate that the dye stains the fibrin glue, which facilitates the application of the material. See. e.g., *Bass* at col. 11, lines 18-21; and *Nasaduke* at p. 325, paragraph bridging cols. 1-2. Similarly, none of the cited references discloses a method to distinguish between healthy and diseased tissue. Therefore, the pending claims are patentable over the art of record.


#### **VI. Conclusions**

In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

By:   
Carlos M. Tellez  
Reg. No. 48,638

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